

Application No.: 10/798,018  
Amendment dated December 7, 2005  
Reply to Office Action of August 23, 2005

### AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

**In the claims**

1. (cancelled)

2. (currently amended): The surgical fastening system of claim [[1]] 4, where the tubular member is sufficiently flexible to navigate tortuous anatomical passages within a human body.

3. (currently amended): The surgical fastening system of claim [[1]] 4, where the surgical fastener is located entirely within the tubular member lumen.

4. (currently amended): A surgical fastening system comprising:  
a tubular member having a proximal and distal ends and a lumen extending therebetween,  
a distal portion located at the distal end of the tubular member, the distal portion having a distal tip being configured to pierce tissue, the distal portion having a lumen extending between the tubular member lumen and an opening in the distal portion;  
at least one surgical fastener slidably located inside the tubular member lumen, where the surgical fastener comprises a first anchor member, a second anchor member, and a connecting portion separating the first and second anchor members;  
an advancing member slidably located within the tubular member lumen such that advancement causes a distal portion of the advancing member to advance the surgical fastener through the tubular member; and

~~The surgical fastening system of claim 1, further comprising~~ a gate member in fluid communication with the tubular member lumen or distal portion lumen, the gate member having a portion that impedes movement of at least one surgical fastener.

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5. (original): The surgical fastening system of claim 4, where the gate member comprises a flexible valve, where the valve increases resistance to the fastener during advancement of the fastener.

6. (original): The surgical fastening system of claim 4, where the gate member is moveably located in the distal portion lumen such that it may at least partially occlude the opening.

7. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the connecting portion of the surgical fastener has a greater elasticity than either the first or second anchor member such that when tissue is placed between the anchor members, the connecting member is placed in a tensile state providing a compressive force against the tissue by the anchor members.

8. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the advancing member is releasably coupled to at least one surgical fasteners.

9. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the opening is at the distal tip.

10. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the opening is in a wall of the distal portion.

11. (original): The surgical fastening system of claim 10, where the distal tip is inserted into the distal portion.

12. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the surgical fastener is an I shaped, H shaped, helical shaped and pig-tail shaped fastener.

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13. (original): The surgical fastening system of claim 12, where the fastener is resilient and assumes the I shape, H shape, helical, or pig-tail shape upon deployment from the tubular member.

14. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the at least one surgical fastener comprises a plurality of surgical fasteners.

15. (original): The surgical fastening system of claim 14, where the plurality of surgical fasteners are each connected.

16. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where the tubular member comprises a reinforcing member to increase an axial strength of the tubular member.

17. (currently amended): The surgical fastening system of claim ~~[[1]]~~ 4, where at least the first anchor member and the second anchor member each are expandable from a first state to a second state where the second state is of a larger displacement than the first state.

18. (original): The surgical fastening system of claim 17, where the second state is of a larger volume than the first state.

19. (original): The surgical fastening system of claim 17, where the first anchor member and second anchor member are compressible upon application of a compressive force and assume the second state upon removal of the compressive force.

20. (original): The surgical fastening system of claim 19, where the first anchor member and second anchor members are sized relative to the tubular member lumen so that the tubular member provides the compressive force upon insertion of the anchor members into the tubular member.

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21. (original): The surgical fastening system of claim 19, where connecting portion is also expandable from the first state to the second state where the second state is of a larger volume than the first state.

22. (original): The surgical fastening system of claim 17, where at least the first and second anchor members comprise a material that expands upon contact with a fluid.

23. (currently amended): The surgical fastening system of claim [[1]] 4, where the tubular member further comprises ~~a further comprising~~ a fluid delivery lumen, and where the distal tip further comprises a port in fluid communication with the fluid delivery lumen.

24. (currently amended): The surgical fastening system of claim [[1]] 4, where the connecting portion has a greater elasticity than either the first or second anchor member such that when tissue is placed between the anchor members, the connecting member is placed in a tensile state providing a compressive force against the tissue by the anchor members.

25. (currently amended): The surgical fastening system of claim [[1]] 4, where the connecting portion has a cross sectional area less than a cross sectional area of either the first or second anchor member.

26. (currently amended): The surgical fastening system of claim [[1]] 4, where the advancing member is detachably coupled to the fastener.

27. (original): The surgical fastening system of claim 26, where the advancing member is detachably coupled to the fastener via a detachable joint.

28. (original): The surgical fastening system of claim 27, where the detachable joint comprises an electrolytic joint.

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29. (original): The surgical fastening system of claim 27, where the detachable joint comprises a polymer.